

failed to obtain evidence that Defendant McCarrick had authority to release Plaintiff during that time period.

4. Therefore Plaintiff has no choice but to dismiss the claim in Count I.
5. Plaintiff therefore moves to dismiss Count I without prejudice.
6. Defendants do not consent to this Motion, for they insist the dismissal be with prejudice, and Plaintiff intends that it be without prejudice.
7. (In order to save time Plaintiff notes that if the court insists that the dismissal be with prejudice if it is to concur at all, Plaintiff will agree to that arrangement).

WHEREFORE, Plaintiff prays the court to dismiss without prejudice Count I of Plaintiff's First Amended Complaint against Defendant McCarrick, (or if the court will only dismiss the claim with prejudice, Plaintiff agrees that the claim may be dismissed with prejudice).

Respectfully Submitted,
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CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2018 the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the following:

All counsel of record

/s/ W. Bevis Schock .
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